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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/806,742

03/23/2004

Angela L. Chiu

1999-0148A CON

2567

7590

09/30/2004

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EXAMINER

NGUYEN, VAN KIM T

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,742

Applicant(s)

CHIU ET AL.

Examiner

Van Kim T. Nguyen

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Aukia et al (US 6,594,268).

Regarding claims 1, 4, and 6, as shown in figures 1-11, Aukia discloses method for use in a network that carries packet traffic under at least two classes of service, best effort and better-than-best effort (QoS and non-QoS (BE) service class; abstract, col. 2, lines 1-36), comprising: determining indivisibly for each of a plurality of link in the network whether a predetermined parameter (QoS provisioning commitments, link capacity and available bandwidth; col. 6: lines 7-18, and lines 59-col. 7: lines 8) associated with the each link meets or exceeds a predetermined criterion, the parameter being a ratio of the amount of packet traffic over each link entitled to one of the classes of service and the amount of packet traffic over each of the link that is entitled to the other of the classes of service (col. 10: lines 53-62; col. 17: line 64 – col. 18: line 27).

Regarding claim 2, Aukia discloses setting a warning flag (trigger event; QoS advertisement packet) for each of the link for which the criterion is met (a condition requiring a new adaptive routing calculation, based on a predetermined schedule; col. 10: line 63 – col. 11: line 10; and col. 15, lines 34-52).

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Regarding claim 3, Aukia discloses providing dynamic subscriptions by using RSVP for aggregate packet traffic flows along any of the links (col. 3: lines 21-37, esp. lines 31-37).

Regarding claim 5, Aukia discloses allowing a customer to request and modify the access rate for at least one of the classes of service (e.g., providing different services to customers according to customers' demands; col. 1, lines 15-27).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nakil et al (US 6,760,334); Mitra et al (US 6,721,270); Lemyere et al (US 6,717,912); Ergun et al (US 6,697,335); Zaumen et al (US 6,658,479); Cloonan et al (US 6,636,842); Riddle et al (US 6,591,299); Fijolek et al (US 6,553,568); Gemar et al (US 6,483,839); Opalka et al (US 6,259,699); Illiadis (US 5,995,486); and Riddle et al (US 2002/0055998).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van kim T. Nguyen whose telephone number is (571) 272-3073. The examiner can normally be reached on 8:00 AM – 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

vkn


BRIAN NGUYEN
PRIMARY EXAMINER

9/28/04